

WILLKIE FARR & GALLAGHER LLP

BENEDICT Y. HUR (SBN: 224018)

bhur@willkie.com

SIMONA AGNOLUCCI (SBN: 246943)

sagnolucci@willkie.com

EDUARDO E. SANTACANA (SBN: 281668)

esantacana@willkie.com

LORI C. ARAKAKI (SBN: 315119)

larakaki@willkie.com

ARGEMIRA FLOREZ (SBN: 331153)

aflorez@willkie.com

Attorneys for
GOOGLE LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAN FRANCISCO

ANIBAL RODRIGUEZ, *et al.* individually and
on behalf of all other similarly situated,

Plaintiffs,

vs

GOOGLE LLC, *et al.*

Defendant.

Case No. 3:20-CV-04688 RS

**DECLARATION OF EDUARDO E.
SANTACANA IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO SEAL RE: PLAINTIFFS'
REPLY IN SUPPORT OF MOTION FOR
RELIEF FROM CASE MANAGEMENT
SCHEDULE**

*[Declaration of Steve Ganem in Support of
Administrative Motion to Seal filed concurrently
herewith]*

Judge: Hon. Alex G. Tse

Courtroom: A – 15th Floor

Trial Date: Not Yet Set

1 I, EDUARDO E. SANTACANA, declare:

2 1. I am an attorney licensed to practice law in the State of California and am a partner
3 with the law firm of Willkie Farr & Gallagher LLP, located at One Front Street, San Francisco,
4 California 94111, counsel for Defendant Google LLC (“Google”) in the above-captioned action.
5 Unless otherwise stated, the facts I set forth in this declaration are based on my personal
6 knowledge or knowledge I obtained through my review of corporate records or other
7 investigation. If called to testify as a witness, I could and would testify competently to such facts
8 under oath.

9 2. I submit this declaration in support of the Administrative Motion to Consider
10 Whether Another Party’s Material Should be Sealed (“Motion to Seal”) filed by Plaintiffs. ECF
11 No. 179. I am making this declaration pursuant to Civil L.R. 79-5(f) as an attorney for the
12 “Designating Party,” as that term is used in that rule. Per the instructions provided on the
13 Northern District of California’s website, this declaration is drafted so that it does not contain
14 confidential information and does not need to be filed under seal. *See*
15 <http://www.cand.uscourts.gov/ecf/underseal>.

16 3. Steve Ganem, a Google Group Product Manager with supervisory authority
17 concerning Google Analytics for Firebase, has also reviewed the information Google seeks to
18 keep under seal and his declaration is submitted in support of the Motion to Seal, on behalf of the
19 Designating Party within the meaning of Civil L.R. 79-5. ***See Declaration of Steve Ganem in***
20 ***Support of Plaintiffs’ Motion to Seal filed concurrently herewith.***

21 4. On November 19, 2021, Plaintiffs filed their Motion to Seal, with certain
22 information conditionally under seal, including (1) portions of Plaintiffs’ Reply in Support of
23 Motion for Relief from Case Management Schedule (“Plaintiffs’ Reply”); and (2) Exhibit D. I
24 have reviewed the documents Plaintiffs seek to file under seal pursuant to Civil Local Rule 79-5,
25 unredacted copies of which have been filed at ECF Nos. 179-2 and 179-4, as well as the Civil
26 Local Rules of this Court governing such motions.

1 5. Google only seeks to seal Exhibit D. Google does not seek to seal anything
2 contained within Plaintiffs' Reply. Google has thus pared down Plaintiffs' proposed material to
3 be filed under seal. The contents of Exhibit D will not clarify the public's understanding of the
4 discovery dispute at issue before the Court. And]because the Motion to Seal was filed in
5 connection with a non-dispositive motion concerning a discovery dispute, "the usual presumption
6 of the public's right of access is rebutted." *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172,
7 1179 (9th Cir. 2006). Accordingly, the lower "good cause" standard applies to the material
8 Google seeks to seal. *Id.* at 1179–80.

9 6. Based on my review of the unredacted filings, there is good cause to protect the
10 information Google seeks to seal.

11 7. **Exhibit D** discloses confidential and proprietary information relating to Google's
12 technical design for its products and settings. The information also reveals Google's internal
13 strategy, product design, and its settings' abilities, and falls within the protected scope of the
14 Protective Order entered in this action. *See* ECF No. 70. Public disclosure of such confidential
15 information could detrimentally affect Google's competitive standing as competitors may alter
16 their products or system designs and practices relating to competing products.

17 8. Courts have repeatedly found it appropriate to seal documents that contain "business
18 information that might harm a litigant's competitive standing, *Nixon v. Warner Commc'ns, Inc.*,
19 435 U.S. 589, 589-99 (1978), or any other "commercially sensitive information," *Palantir Techs.*
20 *Inc. v. Abramowitz*, No. 19-CV-06879-BLF, 2021 WL 1925459, at *2 (N.D. Cal. Mar. 5, 2021).
21 Public disclosure of the information Google seeks to keep under seal would harm Google's
22 competitive standing it has earned through years of innovation and careful deliberation, by
23 revealing sensitive aspects of Google's proprietary products, systems, strategies, and designs to
24 Google's competitors. That alone is a proper basis to seal such information. *See, e.g., Free Range*
25 *Content, Inc. v. Google Inc.*, No. 14-cv-02329-BLF, ECF No. 192, at 6–8 (N.D. Cal. May 3, 2017)
26 (granting Google's motion to seal certain sensitive business information).
27
28

9. Google has narrowly tailored its request to seal only extraneous, confidential, proprietary material that is not necessary to aid the public's understanding of the discovery dispute at issue. Because Google's request to seal is narrowly tailored and is limited to portions that reveal confidential information that is not generally known to the public or Google's competitors, Google respectfully requests that the Court order Exhibit D to be filed under seal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 29, 2021, at San Francisco, California.

/s/ Eduardo E. Santacana
EDUARDO E. SANTACANA